

<p>BOARD OF ASSESSMENT APPEALS, STATE OF COLORADO 1313 Sherman Street, Room 315 Denver, Colorado 80203</p> <hr/> <p>Petitioner:</p> <p>BRENDA L. BLOTIAUX,</p> <p>v.</p> <p>Respondent:</p> <p>MESA COUNTY BOARD OF COMMISSIONERS.</p>	<p>Docket No.: 61981</p>
<p>ORDER</p>	

THIS MATTER was heard by the Board of Assessment Appeals on December 3, 2013, Debra A. Baumbach and Brooke B. Leer presiding. Petitioner appeared *pro se*. Respondent was represented by David Frankel, Esq. Petitioner is requesting an abatement/refund of taxes on the subject property for tax year 2010.

The actual value of the subject property is not in dispute. The value assigned by Mesa County is \$2,289,670 for tax year 2010 and Petitioner is in agreement with this value. The disagreement between the parties pertains to the subject's correct classification for the 2010 tax year.

Subject property is described as follows:

**746 23 1/2 Road, Grand Junction, Colorado
Mesa County Schedule No. R017818**

The subject property consists of 19 acres of land located along I-70. A small house of about 1,000 square feet is located on the acreage. The house is used as a residence for the property owner, Petitioner Ms. Blotiaux, and as a business office for Better Built Trailers, Petitioner's business. The size of the residential portion of the property has been estimated at about one acre. The balance of the land, 18 acres, is used for open storage of cars, trucks, equipment and trailers. The subject property for 2010 tax year is classified as mixed use: one acre of residential and 18 acres of commercial use.

Ms. Blotiaux testified that currently only a portion of the 18 acres, approximately one acre, is being used for open storage and therefore should receive commercial classification. The balance of the property is not being used for storage of equipment or vehicles and should be classified as residential. Ms. Blotiaux indicated she met with Mr. Reed Orr, of the Mesa County Assessor's Office and he helped her in reconfiguring where she could position the storage of equipment and trailers, etc. so as to reduce the amount of commercial land in use and therefore possibly qualify for a change of classification to residential and reduce her property taxes.

The valuation period for the 2010 tax year is January 1, 2007 to June 30, 2008. Petitioner's meeting with Mr. Orr and discussion about consolidating the area used for storage took place after the 2010 valuation period. Ms. Blotiaux acknowledged this misunderstanding of the valuation dates on her part at the hearing. In the assessment cycles of 2009 and 2010, Ms. Blotiaux agreed that the property was being used primarily for commercial use, even though not at full capacity. The rental data Petitioner presented at the hearing was for 2007 and the first six months of 2008; it was reflective of the commercial uses on the property during this time period and into 2009. The unimproved land, about 18 acres, was being used primarily as open storage.

Respondent's witness, Mr. Reed Orr, from the Mesa County Assessor's Office testified and presented a Classification Report. Mr. Orr went through his exhibits and made the argument that for the 2010 valuation period, a significant portion of the subject property was being used for storage, as several maps indicated. The specific date of the maps was uncertain, but they were generally reflective of the way the land was used for the 2010 tax year. Mr. Orr also presented an exhibit that was a page from the 2008 Dex pages that had a phone listing for the subject property and was advertised as, "over 20 acres of open storage for vehicles, equipment and materials."

The property is classified as to its actual use by the assessor's office. Section 39-1-103 (5) (c), C.R.S. states: "Once any property is classified for tax purposes, it shall remain so classified until such time as its actual use changes..." A property is classified as to its use as of January 1st and assessed at this use for the remainder of the year. Per the Assessor Reference Library, Volume 2, Page 6.7, "When the use of a property changes after January 1, the assessment date, the classification assigned to the property as of January 1 remains in place until the following January 1." The subject property has been classified for the 2010 tax year as mixed use: one acre residential and 18 acres of commercial special use property.

Petitioner presented insufficient probative evidence and testimony to prove that the classification of the subject property for tax year 2010 was incorrect as of January 1, 2010. The Petitioner had no disagreement with the actual value of the subject at \$2,289,670.

The Board placed the most weight on the testimony from Petitioner that she agreed the conversations about minimizing the land area used for commercial purposes with the Mesa County Assessor took place after the January 1, 2010 valuation date. The Board finds that the subject's mixed use classification, with one acre classified as residential and 18 acres classified as commercial is accurate for tax year 2010.

ORDER:

The petition is denied.

APPEAL:

If the decision of the Board is against Petitioner, Petitioner may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provisions of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

If the decision of the Board is against Respondent, Respondent, upon the recommendation of the Board that it either is a matter of statewide concern or has resulted in a significant decrease in the total valuation for assessment of the county wherein the property is located, may petition the Court of Appeals for judicial review according to the Colorado appellate rules and the provision of Section 24-4-106(11), C.R.S. (commenced by the filing of a notice of appeal with the Court of Appeals within forty-nine days after the date of the service of the final order entered).

In addition, if the decision of the Board is against Respondent, Respondent may petition the Court of Appeals for judicial review of alleged procedural errors or errors of law when Respondent alleges procedural errors or errors of law by the Board.

If the Board does not recommend its decision to be a matter of statewide concern or to have resulted in a significant decrease in the total valuation for assessment of the county in which the property is located, Respondent may petition the Court of Appeals for judicial review of such questions.

Section 39-10-114.5(2), C.R.S.

DATED and MAILED this 2nd day of January, 2014.

BOARD OF ASSESSMENT APPEALS



Debra A. Baumbach

Debra A. Baumbach

Brooke B. Leer

Brooke B. Leer

I hereby certify that this is a true and correct copy of the decision of the Board of Assessment Appeals.

Milla Lishchuk

Milla Lishchuk